

IC 34-55

ARTICLE 55. EXECUTION OF JUDGMENTS

IC 34-55-1

Chapter 1. Execution of Judgments Generally

IC 34-55-1-1

Enforcement of judgments requiring payments of money or delivery of real or personal property

Sec. 1. When a judgment requires the payment of money or delivery of real or personal property, the judgment may be enforced by execution as provided in this chapter. When the judgment requires the performance of any other act, a certified copy of the judgment may be served upon:

- (1) the party against whom the judgment is given; or
- (2) the person or officer who is required by the judgment or by law to obey the judgment;

and the person's obedience to the judgment may be enforced. If the person refuses to obey the judgment, the person may be punished by the court as for contempt.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-2

Issuance after lapse of ten years

Sec. 2. (a) After the lapse of ten (10) years after:

- (1) the entry of judgment; or
- (2) issuing of an execution;

an execution can be issued only on leave of court, upon motion, after ten (10) days personal notice to the adverse party, unless the adverse party is absent or a nonresident, or cannot be found.

(b) When an execution is issued on leave of court under subsection (a), service of notice may be made by publication, as in an original action, or in a manner as the court directs. Leave shall not be given unless it is established by the oath of the party or other satisfactory proof that the judgment or part of the judgment remains unsatisfied and due.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-3

Three kinds of executions

Sec. 3. There are three (3) kinds of executions:

- (1) Execution against the property of the judgment debtor.
- (2) Execution against the person of the judgment debtor.
- (3) Execution for the delivery of the possession of real or personal property, or such delivery with damages for withholding real or personal property.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-4**Executions issued to sheriffs**

Sec. 4. Executions may be issued to the sheriffs of different counties at the same time. However, the plaintiff shall pay the costs upon all executions not necessary to the collection of the plaintiff's judgment.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-5**Form of execution**

Sec. 5. The execution must:

- (1) issue in the name of the state;
- (2) be directed to the sheriff of the county;
- (3) be sealed with the seal of the court; and
- (4) attested by the clerk of the court.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-6**Reference to judgment in execution**

Sec. 6. The execution must intelligibly refer to the judgment, stating:

- (1) the court where and the time when rendered;
- (2) the names of the parties;
- (3) the amount, if the judgment is for money; and
- (4) the amount actually due on the judgment.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-7**Requirements of sheriff in execution**

Sec. 7. The execution must require the sheriff to do the following:

- (1) If the execution is against the property of the judgment debtor, the execution must require the sheriff to satisfy the judgment out of the property of the debtor, subject to execution.
- (2) If the execution is against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property, or trustees, the execution must require the sheriff to satisfy the judgment out of that property.
- (3) If the execution is against the body of the judgment debtor, the execution must require the sheriff to arrest the debtor and commit the debtor to the jail of the county until the debtor pays the judgment or is discharged according to law.
- (4) If the execution is for the delivery of the possession of real or personal property, the execution:
 - (A) must require the sheriff to deliver the possession of the property, particularly describing the property to the party entitled to the property; and
 - (B) may at the same time require the sheriff to satisfy any costs, damages, rents, or profits recovered by the judgment

out of the property of the party against whom the judgment was rendered, subject to execution.

The value of the property for which the judgment was recovered must be specified in the execution if a delivery cannot be made, and shall, in that respect, be considered an execution against property.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-8

Executions against body; when issued

Sec. 8. An execution against the body shall not be issued while an execution against the property remains unreturned.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-9

Executions against property; when issued

Sec. 9. An execution against the property shall not be issued while there is an execution against the body unreturned.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-10

Execution against body or property; issuance to sheriff

Sec. 10. (a) When the execution is against the property or body of the judgment debtor, the execution may be issued to the sheriff of any county in Indiana.

(b) When the execution requires the delivery of real or personal property, the execution must be issued to the sheriff of the county where the property or part of the property is located.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-11

Return of execution

Sec. 11. (a) Except as provided in subsection (b), the execution shall be returned not later than ninety (90) days after the date of the execution.

(b) The judgment creditor, at the time of filing praecipe for execution, may designate any other time less than ninety (90) days for the return of the execution. In that case, the execution shall be returned within the time fixed by the judgment creditor.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-12

Execution against goods and chattels; priorities

Sec. 12. (a) When an execution against the property of any person is delivered to an officer to be executed, the goods and chattels of the person within the jurisdiction of the officer is bound from the time of the delivery.

(b) If there are several executions against the same defendant in

the hands of different officers, that execution, without regard to the time of its delivery under which the first levy is made, has the preference, and all liens created by the prior delivery of any other execution are divested in favor of the execution first levied.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-13

Endorsement by sheriff

Sec. 13. The sheriff receiving an execution shall endorse on the execution the year, month, day, and hour when the sheriff received the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-14

Executions against principal and surety; principal's property first

Sec. 14. If it appears upon the face of an execution or by the endorsement of the clerk that of those persons against whom the execution is issued, any one (1) person is surety for another, the property of the principal shall be first sold, unless the surety directs otherwise.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-15

Issuance on Sunday

Sec. 15. An execution may be issued and executed on Sunday whenever an affidavit is filed by the plaintiff or another person on the plaintiff's behalf, stating that the plaintiff has reason to fear and believe that the plaintiff will lose the judgment unless process is issued on Sunday.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-16

Clerk's endorsement on Sunday service

Sec. 16. The clerk shall endorse on the execution that the defendants are not privileged from service on Sunday.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-17

Sheriff; death or vacancy in office

Sec. 17. If the sheriff dies or leaves office before the return of an execution, the sheriff's successor or other officer authorized to discharge the duties of the office shall proceed in the same manner that the sheriff should have done.

As added by P.L.1-1998, SEC.51.

IC 34-55-2

Chapter 2. Stay of Execution

IC 34-55-2-1

Bail for stay of executions; entry on record

Sec. 1. The bail for stay of execution may be taken and approved by the clerk and the recognizance entered of record at any time before the stay of execution expires. The undertaking in the recognizance is for the payment of the judgment, interest, and costs that may accrue at or before the expiration of the stay of execution. The recognizance shall be written immediately following the entry of the judgment and signed by the bail.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-2

Return of execution upon entry of bail

Sec. 2. When bail is entered after execution is issued, the clerk shall immediately notify the sheriff of the stay of execution. The sheriff shall immediately return the execution, noting the sheriff's actions on the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-3

Execution issued for want of bail; clerk's endorsement

Sec. 3. When execution issues for want of bail before the stay of execution expires, the clerk shall endorse on the execution:

- (1) the date of the judgment; and
- (2) that the execution is repleviable.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-4

Stay of execution for remainder of term

Sec. 4. In a case described in section 3 of this chapter, the defendant may have a stay of execution for the remainder of the term of the stay of execution by putting in bail, approved by the sheriff, and endorsed on the stay and signed by the surety.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-5

Return of execution by sheriff; copy of recognizance on execution docket

Sec. 5. The sheriff, having taken the bail, shall immediately return the execution, with the sheriff's actions noted on the execution to the clerk's office. The clerk shall copy the recognizance in the execution docket. The recognizance has the same force as if taken by the clerk.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-6

Relinquishment of property levied before stay of execution

Sec. 6. All:

- (1) property levied on before stay of execution; and
- (2) written undertakings for the delivery of personal property to the sheriff;

shall be relinquished by the officer upon bail for the stay of execution being entered.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-7

Recognizance of bail; effect of judgment confessed

Sec. 7. Every recognizance of bail, taken as provided in this chapter, has the effect of a judgment confessed, from the date of the recognizance, against the person and property of the bail.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-8

Praecept and fee bill

Sec. 8. (a) An execution shall not be issued in any cause except on the written praecipe of:

- (1) a party to the suit;
- (2) the party's representatives or assigns; or
- (3) the party's attorney of record.

(b) A fee bill shall not be issued unless the fee bill is ordered by the person to whom the fees or a part of the fees are due. However, the clerk shall receive nothing for any fee bill issued for the clerk's own fees.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-9

Joint executions

Sec. 9. At the expiration of the stay, the clerk shall issue a joint execution against the property of all the judgment debtors and replevin bail. The sheriff shall first levy upon the property of the judgment defendants, if sufficient property can be found. If not, the sheriff shall, without delay, levy the execution upon the property of the bail. However, no property of the bail shall be sold while property of the original judgment debtor, subject to the execution, can be found in the county.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-10

When stays not allowed

Sec. 10. (a) A stay of execution is not allowed upon any judgment recovered against any officer, person, or corporation, or the sureties of an officer, person, or corporation, for money received in a fiduciary capacity, or for a breach of any official duty.

(b) The clerk shall immediately issue executions upon judgments

described in subsection (a), returnable in ninety (90) days, and endorsed "not repleviable". It shall be so ordered in the judgment.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-11

Sureties' objections to stay

Sec. 11. When any court renders judgment against two (2) or more persons, any of whom are sureties for any other or others in the contract on which the judgment is founded, there shall be no stay of execution on the judgment if the sureties object at the time of rendering the judgment. It shall be so ordered by the court unless surety for the stay of execution will undertake specially to pay the judgment, in case the amount of the judgment cannot be levied of the principal defendant.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-12

Surety for stay; request for immediate execution

Sec. 12. A surety for the stay of execution may file with the clerk an affidavit, stating that the surety truly believes that the surety will be liable for the judgment, interest, and costs unless execution issues immediately. The clerk shall immediately issue execution unless other sufficient bail is entered before the clerk or sheriff as in other cases.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-13

Entry of other bail; effect

Sec. 13. If other sufficient bail is entered, it shall have the force of the original bail entered before the filing of the affidavit and shall discharge the original bail.

As added by P.L.1-1998, SEC.51.

IC 34-55-3

Chapter 3. Levy of Execution

IC 34-55-3-1

Service by sheriff and offer to sell

Sec. 1. When an execution against the property of any person is issued to the sheriff, the sheriff shall:

- (1) serve the execution upon the defendants in the county and levy the execution, if not paid, upon property; and
- (2) make at least one (1) offer to sell property levied upon within sixty (60) days after the execution comes to the sheriff, if property can be found, unless otherwise directed by the plaintiff or the plaintiff's agents.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-2

Currency and bank notes

Sec. 2. Current coin and lawful money, and bank notes the plaintiff is willing to receive as money, may be levied upon and returned on execution, without sale, as so much money collected.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-3

Bills, notes, drafts, and checks

Sec. 3. Bills, notes, drafts, checks, or other evidences of debt, issued by any monied corporation or bank, or by Indiana or the United States, and circulating as money, may be levied upon as personal property and sold on execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-4

Goods and chattels pledged, assigned, or mortgaged

Sec. 4. Goods and chattels pledged, assigned, or mortgaged as security for any debt or contract may be levied upon and sold on execution against the person making the pledge, assignment, or mortgage. The purchaser is entitled to the possession upon complying with the conditions of the pledge, assignment, or mortgage.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-5

Shares of stock

Sec. 5. (a) Shares of stock in any corporation or company may be levied upon and sold in the county where the office and books, showing the shares of stock and stockholders of the corporation or company, are kept.

(b) The sheriff shall transfer the stock, subject to the rights of the corporation or company.

(c) The sheriff is entitled to access to the books of any corporation

or company in the sheriff's county for the purpose of making the levy. If refused access, the court shall enforce the right.

(d) The shares of stock subject to be levied upon are bound by the execution from the time of the levy. When the levy is made, the sheriff shall leave the notice of the levy with the officers of the company. The levy constitutes a lien upon the stock from the time of the levy.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-6

Debt or cause of action

Sec. 6. Any debt or cause of action, which is assignable, may be levied upon, when given up by the defendant, and sold on execution, in the same manner as other personal property.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-7

Debt or thing in action; assignment and delivery to purchaser

Sec. 7. The sheriff making the sale of any debt or thing in action shall assign and deliver the debt or thing in action to the purchaser. The assignment has the same effect as if made by the execution defendant at the time of making the levy.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-8

Actions involving assignments; pleading

Sec. 8. In any action in which the assignment is declared upon or stated, it is not necessary to plead or prove any judgment or execution, by virtue of which the sale was made, nor to prove the execution of the assignment, unless the assignment is denied under oath.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-9

Designated and undesignated property

Sec. 9. (a) When an execution issues against the real or personal property of any person, the sheriff shall levy the execution, first upon that part of the property designated by the person, if there is no reasonable doubt that the person is the owner of the property and if designated in time to enable the sheriff to levy and sell without unnecessary delay.

(b) If no property is designated as described in subsection (a), the sheriff shall levy the execution upon any property of the debtor that can be found, subject to execution.

(c) If the designated property is insufficient to satisfy the execution, the sheriff shall levy the execution upon other property, subject to execution, as can be most readily found, sufficient, in addition to the property designated, to satisfy the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-10

Personalty and real estate; order of levy and sale

Sec. 10. In all cases where the personal estate of the debtor, subject to execution, is insufficient to satisfy the execution, the real estate is exempt from levy and sale until the personal estate is levied upon and sold, unless the debtor directs otherwise. The principal messuage, lands, or tenements of the debtor, or upon which the debtor may reside, shall not be levied upon unless other property cannot be found sufficient to satisfy the execution in the hands of the sheriff.

As added by P.L.1-1998, SEC.51.

IC 34-55-4

Chapter 4. Appraisement

IC 34-55-4-1

Sales for less than two-thirds appraised value prohibited

Sec. 1. Property shall not be sold on any execution or order of sale issued out of any court for less than two-thirds (2/3) of the appraised cash value of the property, exclusive of liens and encumbrances, except where otherwise provided by law.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-2

Sheriff to ascertain cash value

Sec. 2. The sheriff, immediately upon levying an execution, shall proceed to ascertain the cash value of the property levied upon.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-3

Appraisers; selection; duties

Sec. 3. (a) For the purpose of appraising the cash value of property:

(1) two (2) disinterested householders of the neighborhood where the levy is made shall be selected as appraisers, one (1) of whom shall be selected by each of the parties or their agents; or

(2) in the absence of either party or the party's agent, or upon the failure or refusal of either party after three (3) days notice by the sheriff, to make the selection, the sheriff shall proceed to select the appraisers.

(b) The appraisers shall immediately proceed to appraise the property according to its cash value at the time, deducting liens and encumbrances. In case of their disagreement as to the value, the sheriff shall select a like disinterested appraiser, and, with the disinterested appraiser's assistance, shall complete the valuation. The appraisement of any two (2) of them shall be considered the cash value.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-4

Failure of appraiser to act; successor

Sec. 4. If an appraiser fails to act or to complete the valuation, another appraiser shall be chosen, as provided in this chapter.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-5

Lists of liens and encumbrances

Sec. 5. It is not the duty of the sheriff or the appraisers to ascertain the amount of liens and encumbrances. However, either party may

furnish the sheriff with a list of liens and encumbrances, with the amount and nature of each.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-6

Schedule of property levied on

Sec. 6. The sheriff shall furnish the appraisers a schedule of the property levied on, with the encumbrances made known to the sheriff. The appraisers shall proceed to fix and set down opposite to each tract, lot, or parcel of real estate, and of the several articles of personal property, the cash value, deducting liens and encumbrances. The appraisers shall return the schedule to the sheriff.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-7

Oath of appraisers

Sec. 7. (a) The appraisers shall take and subscribe an oath, annexed to the appraisement, to the effect that:

- (1) the property mentioned in the schedule is, to the best of their judgment, worth the sums specified in the appraisement; and
- (2) the appraisement is the fair cash value of the property at the time, exclusive of liens and encumbrances.

(b) The sheriff may administer and attest the oath described in subsection (a).

As added by P.L.1-1998, SEC.51.

IC 34-55-4-8

Purchaser's rights regarding encumbered property

Sec. 8. (a) Subject to subsection (b), where any property is sold subject to liens and encumbrances, the purchaser may:

- (1) pay the liens and encumbrances and hold the property discharged from all claims of the execution defendant; or
- (2) hold the property subject to be redeemed by the execution defendant, or the execution defendant's heirs, or assigns, by paying to the purchaser, or the purchaser's heirs or assigns, the purchase money, with interest.

When redeemed, the purchaser shall have the growing crops and shall not be accountable for rents and profits, but the purchaser shall account for waste.

(b) This section does not deprive a party from the right to redeem when authorized by statute.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-9

Unsold property; sheriff's duty

Sec. 9. When any property levied on remains unsold, the sheriff shall, when the sheriff returns the execution, return the appraisement with the execution, stating in the sheriff's return the failure to sell and

the cause of the failure.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-10

Continuance of lien on unsold property

Sec. 10. (a) The lien of the levy upon the property shall continue, and the clerk, when directed by the plaintiff, shall immediately issue another execution:

(1) reciting the return of the former execution and the levy and failure to sell; and

(2) directing the sheriff to satisfy the judgment out of the unsold property, if the unsold property is sufficient.

(b) If the property is not sufficient, the sheriff shall satisfy the judgment out of any other property of the debtor subject to execution. However, the lien as to personal property continues only for thirty (30) days (unless a second execution is issued) from the time of the return. At that time, the property shall be released to bona fide purchasers for value and to the levies of writs on other judgments. The levy shall, as between the parties, be considered vacated. As to real property, the levy of the writ shall be discharged after six (6) months.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-11

Unsold property; revaluation and reoffer

Sec. 11. Whenever any property levied upon remains unsold for want of buyers, the plaintiff may cause the property to be reoffered at any time before the return day of the execution, at the plaintiff's costs, as often as the plaintiff may direct. In case of the sale of the property, the costs of the offer and sale shall be taxed against the defendant. Either party may have a revaluation of the property, at that party's costs, after any offer to sell.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-12

Fraudulent transfers or conveyances

Sec. 12. Property conveyed by a debtor with intent to hinder, delay, or defraud creditors shall be sold without appraisal.

As added by P.L.1-1998, SEC.51.

IC 34-55-5

Chapter 5. Personal Property Taken in Execution of Judgment

IC 34-55-5-1

Return of property to execution defendant

Sec. 1. (a) Any personal property taken in execution may be returned to the execution defendant by the sheriff, upon the delivery by the defendant to the sheriff of a written undertaking described in subsection (b).

(b) The written undertaking must be:

(1) payable to the execution plaintiff, with sufficient surety to be approved by the sheriff; and

(2) to the effect that the property shall be delivered to the sheriff at a time and place named in the undertaking, to be sold:

(A) according to law; or

(B) for the payment to the sheriff of:

(i) the appraised value of the property; or

(ii) if the property has not been appraised, the fair value of the property.

As added by P.L.1-1998, SEC.51.

IC 34-55-5-2

Appraisal of property

Sec. 2. (a) Before the sheriff delivers any part of the property to the defendant, the sheriff shall cause the property to be appraised in the manner prescribed by law when an appraisal of the property is required.

(b) The defendant may sell or dispose of the property, paying the officer the full appraised value of the property.

As added by P.L.1-1998, SEC.51.

IC 34-55-5-3

Nondelivery of property; duty of sheriff to levy and sell

Sec. 3. In case of the nondelivery of the property according to the undertaking, the sheriff shall levy upon and sell the property, or any other property of the defendant, as soon as practicable, at any time before the return day of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-5-4

Forfeiture of undertaking; endorsement

Sec. 4. Upon the forfeiture of the written undertaking, the officer shall immediately return it endorsed "forfeited" to the clerk's office for the use of the plaintiff.

As added by P.L.1-1998, SEC.51.

IC 34-55-5-5

Actions on undertakings; damages

Sec. 5. The written undertaking is valid in law. An action may be brought on the written undertaking, whenever the condition of the written undertaking is broken, and on recovery. The value of the property so taken, with damages not exceeding ten percent (10%) on the value, shall be assessed in favor of the plaintiff. However, the recovery may not exceed the amount due on the execution, and ten percent (10%) on the principal.

As added by P.L.1-1998, SEC.51.

IC 34-55-5-6

Execution without stay

Sec. 6. On judgment obtained on the written undertaking, execution shall issue immediately, without stay, returnable in thirty (30) days, and the sheriff shall not return to the execution defendant any property levied on, except upon payment of the judgment.

As added by P.L.1-1998, SEC.51.

IC 34-55-6

Chapter 6. Sale of Property on Execution

IC 34-55-6-1

Real estate; rents and profits to be first offered for sale

Sec. 1. The estate or interest of the judgment debtor in any real estate shall not be sold on execution until the rents and profits of the real estate has been first offered for sale at public auction for a period not exceeding seven (7) years. However, if the real estate does not sell for a sum sufficient to satisfy the execution, the estate or interest of the judgment debtor shall be sold by virtue of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-2

Manner of sale

Sec. 2. A sheriff shall sell property on execution in a manner that is reasonably likely to bring the highest net proceeds from the sale after deducting the expenses of the offer to sell and sale.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-3

Auctions

Sec. 3. Upon prior petition of the debtor, any creditor involved in the execution proceedings, or, in the case of a partition action, any party having an interest in the property, the court in its order of execution shall order the property sold by the sheriff through the services of an auctioneer if the court determines that:

- (1) a sale is economically feasible; or
- (2) all the creditors in the proceedings agree to both that method of sale and the compensation to be paid the auctioneer.

As added by P.L.1-1998, SEC.51. Amended by P.L.94-2014, SEC.8.

IC 34-55-6-4

Auctioneer's conduct; advertising

Sec. 4. An auctioneer engaged by a sheriff under this chapter shall conduct the auctioneer's activities as appropriate to bring the highest bid for the property on execution. The advertising conducted by the auctioneer is in addition to any other notice required by law.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-5

Auctioneer's fee and expenses

Sec. 5. (a) The auctioneer's fee shall be a reasonable amount stated in the court's order.

(b) This subsection does not apply to a partition action. If the sale by use of an auctioneer has not been agreed to by the creditors in the proceedings and the sale price is less than the sale price described in IC 34-6-2-35, the auctioneer is entitled only to the auctioneer's

advertising expenses plus one hundred dollars (\$100).

(c) The amount due the auctioneer for the auctioneer's expenses and fee, if any, shall be paid as a cost of the sale from the sale proceeds before the payment of any other payment from the sale proceeds.

As added by P.L.1-1998, SEC.51. Amended by P.L.94-2014, SEC.9.

IC 34-55-6-6

Rents and profits; sale and appraisal

Sec. 6. Rents and profits may be sold as other property, the appraisers setting down the value of each year separately.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-7

Rents and profits; maximum term of lease

Sec. 7. If rents and profits are sold under section 6 of this chapter (or IC 34-1-39-2 before its repeal), only the number of years of rents and profits not exceeding seven (7) years shall be sold as will satisfy the execution, and no more. The sheriff shall execute a lease to the purchaser for the term sold.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-8

Real estate; sale at public auction

Sec. 8. (a) Real estate, including chattels real, taken by virtue of an execution, shall be sold at public auction at:

- (1) the courthouse of the county in which the real estate is located; or
- (2) another location that is reasonably likely to draw higher bids for the real property.

(b) If the estate consists of several lots, tracts, and parcels, each lot, tract, or parcel shall be offered for sale separately. No more of any real estate shall be offered for sale than is necessary to satisfy the execution, unless the real estate is not susceptible of division.

(c) When real estate which is not susceptible of division is ordered to be sold on any decree or judgment, and the real estate is traversed by the line between two (2) counties, the real estate may be advertised and sold in either county.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-9

Real estate; notice requirements for sale

Sec. 9. (a) A sale of real estate, on execution, shall be advertised by the sheriff for at least twenty (20) days successively, next before the day of sale, by:

- (1) posting written or printed notices of the sale in three (3) public places in the township in which the real estate is located;
- (2) posting a like advertisement at the door of the courthouse of the county; and

(3) advertising the sale for three (3) weeks successively in a newspaper:

- (A) of general circulation;
- (B) printed in the English language; and
- (C) published in the county where the real estate is located.

(b) However, if the sheriff is not able to procure the publication of the notice in a newspaper of general circulation, published within the sheriff's county, the sheriff may dispense with the publication of the notice. The land may be sold without the required publication, but the sheriff shall, in the sheriff's return of the writ, state the sheriff's inability to procure the publication. The return has the same effect in evidence as the official returns of sheriffs in other cases.

(c) In a notice under this section, the sheriff must include the following:

- (1) A statement of the date, time, and place of the sale.
- (2) A description of the location of the property that includes, for informational purposes only, the location of each property by street address, if any, or other common description of the property other than legal description. However, a misstatement in the informational statement under this subdivision does not invalidate an otherwise valid sale.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-10

Personal property; notice requirements for sale

Sec. 10. Previous notice of the time and place of the sale of any personal property on execution shall be given for ten (10) days successively by posting written notices of the sale in at least three (3) of the most public places in the township where the sale is to be made.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-11

Personal property; sale at public auction

Sec. 11. (a) Personal property shall not be sold unless the personal property is present and subject to the view of those persons attending the sale.

(b) Personal property shall be sold at public auction, in such lots and parcels as calculated to bring the highest price.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-12

Insufficient levy; further levy and sale

Sec. 12. If the property levied on does not sell for a sum sufficient to satisfy the execution, the sheriff shall:

- (1) make a further and sufficient levy, if sufficient property can be found;
- (2) proceed as upon the first levy; and
- (3) return the sheriff's actions on the further levy.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-13

Unsatisfied execution; issuance of new execution

Sec. 13. The clerk, upon the return of an execution unsatisfied, shall issue another execution upon the judgment, and endorse on the execution the amount of money, if any, levied by the former execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-14

Real estate; sheriff's deed

Sec. 14. (a) Upon the sale of real estate, by virtue of an execution, and the payment of the purchase money, the sheriff making the sale (or in case of the sheriff's death or going out of office, the sheriff's successor) or any officer authorized to discharge the duties of the office shall execute and deliver to the purchaser a deed of conveyance for the premises.

(b) A deed of conveyance delivered under subsection (a) is valid and effectual to convey all the right, title, and interest of the execution debtor to the purchaser, except any right of redemption, as provided by law.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-15

Real estate; conveyance of land to heirs or devisees of deceased purchaser

Sec. 15. If the purchaser of real estate upon execution, who has paid the purchase money for the real estate, dies before a deed of conveyance is executed to the purchaser, the sheriff shall convey the real estate to the heirs or devisees of the deceased person.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-16

Procedural violations by sheriff; penalties

Sec. 16. (a) A sheriff who:

- (1) sells any real estate without giving the previous notice required by this chapter (or IC 34-1-39 before its repeal); or
- (2) sells the real estate otherwise than in the manner prescribed by this chapter;

shall forfeit and pay to the injured party not less than ten dollars (\$10) nor more than two hundred dollars (\$200) in addition to other damages the party may have sustained.

(b) Damages under subsection (a) may be recovered from the sheriff or from the sheriff and the sheriff's sureties in an action on the sheriff's official bond.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-17

Purchase of property by sheriff or deputies; sale void

Sec. 17. If a sheriff or the sheriff's agent making sale of property on execution directly or indirectly purchases the property, the sale is void.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-18**Failure of purchaser to pay for property; damages**

Sec. 18. Whenever the purchaser of property sold on execution fails or refuses to pay the purchase money, the purchaser is liable, on motion made by the sheriff or the execution plaintiff or defendant in the proper court on five (5) days notice, to a judgment for the amount of:

- (1) the purchase money;
- (2) damages not exceeding ten percent (10%);
- (3) interest; and
- (4) costs.

No stay of execution shall be allowed upon the judgment.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-19**Failure of purchaser to pay for property; resale of property; damages**

Sec. 19. (a) As an alternative to the procedure set forth in section 18 of this chapter, the sheriff may reexpose and sell the property on the same or any subsequent day according to law. If the amount bid at the second sale does not equal the amount bid at the first sale and the costs of the second sale, the first purchaser is liable for:

- (1) the deficiency;
- (2) damages not exceeding ten percent (10%);
- (3) interest; and
- (4) costs;

to be recovered by a like notice and motion as provided in section 18 of this chapter.

(b) If the sheriff sells on a subsequent day, the sheriff shall readvertise as in other cases.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-20**Limitation on use of mail**

Sec. 20. When an execution is issued to any county other than the county in which the judgment is rendered, return may be made by mail. However, money may not be sent by mail, except by the direction of the party entitled to the money or that party's attorney.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-21**Surplus of execution sale; disposition**

Sec. 21. When property is sold on execution for more than will

satisfy the execution, including interest and costs, the sheriff shall pay the overplus to the execution debtor on whom it was levied, or to the execution debtor's assigns, unless the execution debtor is notified of the existence of liens to the payment of which the overplus should be applied. In that event, the execution debtor shall return the money, which is to be disposed of as the court directs.

As added by P.L.1-1998, SEC.51.

IC 34-55-7

Chapter 7. Liability of Sheriff to Pay Money Collected on Execution

IC 34-55-7-1

Time of paying over money

Sec. 1. When the sheriff has collected any money on execution, the sheriff shall pay over the money at the earliest opportunity, unless enjoined.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-2

Neglect or refusal of sheriff to levy or sell; liability

Sec. 2. If a sheriff neglects or refuses to levy upon or sell any property justly liable to execution when the levy or sale might have been done, the sheriff is liable for the value of the property, not to exceed the amount necessary to satisfy the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-3

Neglect or refusal of sheriff to return execution; liability

Sec. 3. If a sheriff neglects or refuses to return any execution as required by law, or makes a false return on the execution, the sheriff is liable for the amount the sheriff might and should have levied by virtue of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-4

Neglect or refusal of sheriff to pay over money collected on execution; liability

Sec. 4. If a sheriff neglects or refuses on demand to pay over any money collected on execution to the execution creditor, the execution creditor's agent or attorney, or the execution debtor when entitled, the sheriff is liable for the amount withheld.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-5

Additional damages

Sec. 5. In all cases described in sections 2, 3, and 4 of this chapter, the plaintiff shall, in addition to the amount of liability, recover from the sheriff:

(1) legal interest; and

(2) damages not exceeding ten percent (10%) on the principal sum recovered.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-6

Actions against sheriff; procedure

Sec. 6. (a) Recovery under section 5 of this chapter may be made by:

- (1) motion against the officer in the proper court upon ten (10) days notice; or
- (2) action on the bond of the sheriff.

(b) The proceedings in this section may be commenced immediately upon the default of the sheriff, either before or after the return day of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-7

Return of execution

Sec. 7. (a) Every execution shall be returned immediately upon being satisfied by the collection of the money or upon order of the plaintiff or the plaintiff's agent endorsed on the execution.

(b) When the return day of an execution falls on Sunday, the execution shall be returned on the following Monday.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-8

Failure to give notice of sale to defendant; plaintiff required to submit refunding bond

Sec. 8. If:

- (1) the sheriff sells the property of a nonresident or other person upon an execution issued on a judgment recovered against the person in a case where publication has been provided; and
- (2) no personal notice of the pendency of the action was given to the defendant;

the plaintiff may not receive any of the proceeds of the sale until the plaintiff has filed in the clerk's office a written undertaking, with surety, to be approved by the clerk, to the effect that the plaintiff will refund the money about to be received by the plaintiff, or so much of the money as is necessary, if the judgment is afterwards annulled or set aside and the defendant shows that the plaintiff's claim is unfounded in whole or in part. However, surety to refund is not required in cases of attachment.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-9

Death of defendant; effect

Sec. 9. The death of a defendant, after the execution is placed in the hands of the sheriff to be executed, does not affect the sheriff's proceedings, except that the amount of property allowed absolutely to the surviving spouse of the decedent is exempt from levy and sale under the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-8

Chapter 8. Proceedings Supplementary to Execution

IC 34-55-8-1

Unsatisfied execution; order requiring judgment debtor to appear

Sec. 1. If an execution against the property of the judgment debtor or any of several debtors in the same judgment is returned unsatisfied, in whole or in part, the judgment creditor, after the return is made, is entitled to an order to be issued by any circuit, superior, or city court in the jurisdiction to which the execution issued that requires the judgment debtor to appear before the court to answer concerning the judgment debtor's property, income, and profits within the county to which the execution was issued.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-2

Refusal of judgment debtor to apply assets to judgment; order requiring

Sec. 2. (a) If, after the issuing of an execution against property, the execution plaintiff or other person on the execution plaintiff's behalf makes and files with the clerk of any court of record of any city, county, or township an affidavit:

(1) stating to the effect that a judgment debtor, residing in the territorial jurisdiction of the court, has property, income, or profits that the judgment debtor unjustly refuses to apply toward the satisfaction of the judgment; and

(2) describing the property, income, or profits;

the court shall issue a subpoena requiring the judgment debtor to appear immediately before the court, at a specified time and place, to answer concerning the affidavit.

(b) Proceedings described in subsection (a) may subsequently be held for the application of the property, income, or profits of the judgment debtor toward the satisfaction of the judgment as provided upon the return of an execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-3

Arrest of debtor authorized

Sec. 3. When the plaintiff or the plaintiff's agent or attorney, at the time of applying for the order or at any time afterwards, makes and files an affidavit with the court, stating that:

(1) there is danger of the debtor leaving the state or concealing himself or herself; and

(2) there is reason to believe the debtor has property, rights, credits, moneys, or effects that the debtor unjustly refuses to apply to the judgment, with intent to defraud the creditor;

the court shall issue to the sheriff of the county an order of arrest and bail.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-4

Arrest of debtor; bond

Sec. 4. The sheriff, after taking the execution debtor into custody upon the order of arrest, shall require the execution debtor to enter into a written undertaking to the plaintiff, with surety, to be approved by the officer, that:

- (1) the execution debtor will attend before the court and obey the order made by the court; and
- (2) the execution debtor will not, in the meantime, dispose of any part of the execution debtor's property that is not exempt from execution.

If the execution debtor defaults on the written undertaking, the execution debtor shall be committed to prison. Upon breach of the written undertaking, the plaintiff is entitled to the amount of the value of the property unlawfully withheld or disposed of.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-5

Third parties; when required to appear

Sec. 5. (a) Except as provided in subsections (b) and (c):

- (1) after the issuing or return of an execution against the property of the judgment debtor or any one (1) of the several debtors in the same judgment; and
- (2) upon an affidavit that any person, corporation (municipal or otherwise), the state, or any subdivision or agency of the state:
 - (A) has property of the judgment debtor; or
 - (B) is or will be periodically indebted to the judgment debtor in any amount (although the amount shall be determined periodically as it becomes due and payable, which together with other property claimed by the judgment debtor as exempt from execution, exceeds the amount of property exempt by law);

such person, corporation, any member of the corporation, the auditor of state, or auditing officer of the municipal corporations, subdivisions, or agencies of the state may be required to appear and answer concerning the affidavit, as provided by this chapter.

(b) The persons described in this section shall not be required to appear personally in court unless the judge of the court orders their personal appearance.

(c) The court may order interrogatories to be submitted and the interrogatories to be answered by the persons described in subsection (a). The interrogatories shall be submitted by the parties. The clerk of the court shall transmit by registered mail a copy of:

- (1) the interrogatories, with blanks for answer; and
- (2) the order of the court ordering the interrogatories answered; to the person, corporation, member of the corporation, the auditor of state, or the auditing officer of the municipal corporations, subdivisions, or agencies of the state required to answer the

interrogatories. On receipt of the interrogatories and order, the person, corporation, member of the corporation, auditor of state, or the auditing officer of the municipal corporations, subdivisions, or agencies of the state shall answer the interrogatories and return the interrogatories to the clerk by registered mail or personally. The court may compel answers to the interrogatories.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-6

Witnesses

Sec. 6. (a) Witnesses may be required to appear and testify in the proceeding provided for in this chapter.

(b) Either party may examine the other as a witness in the same manner as upon the trial of an issue, or the plaintiff may waive the answer of the debtor and rely upon other testimony.

(c) All examinations and answers under this section shall be made on the oath of the party. However, when a corporation answers, the answers shall be on the oath of an officer of the corporation.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-7

Order requiring application of property to debt and forbidding transfer; liens; order for placing hold on deposit account; hearing; order releasing hold

Sec. 7. (a) Except as provided in subsection (b), after a hearing of which the judgment debtor has been notified, the court may order:

(1) any property, income, or profits of the judgment debtor not exempt from execution or process, in the hands either of the judgment debtor or of any other person; or

(2) any debt due to the judgment debtor;

to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action.

(b) If the judgment debtor has failed to comply with an agreed order in the action, after a hearing of which the judgment debtor has been notified, the court shall order:

(1) any property, income, or profits of the judgment debtor not exempt from execution or process, in the hands either of the judgment debtor or of any other person; or

(2) any debt due to the judgment debtor;

to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action.

(c) The judge shall order that:

(1) the judgment or execution is a continuing lien upon the income or profits of the judgment debtor in the hands either of the judgment debtor or any other person, governmental officer, or corporation from the date the order is served upon the person, governmental officer, or corporation indebted to the judgment debtor to the extent that the lien, together with all similar liens, is permitted under IC 24-4.5-5-105; and

(2) the court may enforce all orders and decrees in the premises, by attachment or otherwise.

(d) A court in an action for proceedings supplementary to execution shall issue an order directing a depository financial institution (as defined in IC 28-9-2) to place a hold on a deposit account in which the judgment debtor has an interest, either individually or jointly with another person, whenever the conditions prescribed under IC 28-9-3-4(d)(1) through IC 28-9-3-4(d)(3) are met. An order issued under this subsection:

(1) is subject to the limitations as to duration of the restriction and the amount to be restricted as specified under IC 28-9-4-2; and

(2) may be terminated or modified to reflect valid exemptions of a depositor that the court has considered.

(e) If an order for the placing of a hold on a deposit account is issued under subsection (d), a person whose deposit account is affected may request a hearing from the court on the matter of:

(1) the person's right to claim certain funds in the person's deposit account as exempt from garnishment; and

(2) whether the hold should be removed by the court.

(f) If a court receives a request for a hearing under subsection (e), the court shall hold a hearing on the matter within five (5) days (excluding Saturdays, Sundays, and legal holidays) after the court receives the request.

(g) If a person whose deposit account is affected by the order issued under subsection (d) files an affidavit with the court stating that the funds in the account are exempt from garnishment, the court may issue an order releasing the hold on the account without first conducting a hearing.

(h) If a court has issued a garnishment order to a third party and the garnishment order no longer applies to the third party due to a change in circumstances, the court may cancel the garnishment order and issue a new garnishment order to an appropriate third party, if all of the following conditions are met:

(1) The court has issued a garnishment order under subsection (a) or (b) with respect to a judgment debtor's income or profits in the hands of a third party.

(2) The judgment constitutes a continuing lien under subsection (c).

(3) Due to a change in circumstances, including a change of employment, the judgment debtor's income or profits are in the hands of a new third party not named in the garnishment order.

(4) The judgment creditor files a petition:

(A) notifying the court of the matters described in subdivisions (1) through (3); and

(B) informing the court of the name, address, and other relevant information concerning the new third party holding the judgment debtor's income and profits.

A court may issue a new garnishment order under this subsection

without holding a hearing.

*As added by P.L.1-1998, SEC.51. Amended by P.L.1-1999, SEC.76;
P.L.78-2014, SEC.22.*

IC 34-55-8-8

Cost of proceedings

Sec. 8. Costs shall be awarded and taxed in a proceeding under this chapter as in other cases.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-9

Proceedings to be summary

Sec. 9. All proceedings under this chapter, after the order has been made requiring parties to appear and answer, shall be summary, without further pleadings, upon the oral examination and testimony of parties and witnesses. However, the sufficiency of the order and of the affidavit first filed by the plaintiff may be tested by:

- (1) demurrer;
- (2) motion to dismiss; or
- (3) motion to strike.

As added by P.L.1-1998, SEC.51.

IC 34-55-9

Chapter 9. Real Estate Subject to Judgment and Execution

IC 34-55-9-1

Real estate liable to judgment and attachment enumerated

Sec. 1. The following real estate is liable to all judgments and attachments and to be sold on execution against the debtor owing the real estate or for whose use the real estate is held:

- (1) All lands of the judgment debtor, whether in possession, remainder, or reversion.
- (2) All rights of redeeming mortgaged lands and all lands held by virtue of any land office certificate.
- (3) Lands or any estate or interest in land held by anyone in trust for or to the use of another.
- (4) All chattels real of the judgment debtor.

As added by P.L.1-1998, SEC.51.

IC 34-55-9-2

Liens upon real estate and chattels real

Sec. 2. All final judgments for the recovery of money or costs in the circuit court and other courts of record of general original jurisdiction in Indiana, whether state or federal, constitute a lien upon real estate and chattels real liable to execution in the county where the judgment has been duly entered and indexed in the judgment docket as provided by law:

- (1) after the time the judgment was entered and indexed; and
- (2) until the expiration of ten (10) years after the rendition of the judgment;

exclusive of any time during which the party was restrained from proceeding on the lien by an appeal, an injunction, the death of the defendant, or the agreement of the parties entered of record.

As added by P.L.1-1998, SEC.51.

IC 34-55-9-3

Judgments on bonds payable to state

Sec. 3. Judgments on bonds payable to the state of Indiana bind the real estate of the debtor from the commencement of the action.

As added by P.L.1-1998, SEC.51.

IC 34-55-9-4

Recognizance binding upon real estate

Sec. 4. A recognizance binds the real estate of the principal from the time it is taken. A recognizance only binds the real estate of the surety, however, from the time judgment of forfeiture is rendered.

As added by P.L.1-1998, SEC.51.

IC 34-55-9-5

Executions issued to another county binding upon real estate

Sec. 5. An execution against property issued to another county binds the real estate of the defendant from the time of the levy.
As added by P.L.1-1998, SEC.51.

IC 34-55-10

Chapter 10. Sales and Execution of Real Estate: Exemptions

IC 34-55-10-0.2

Application of certain amendments to prior law

Sec. 0.2. (a) The amendments made to IC 34-2-28 (before its repeal, now codified in this chapter) by P.L.182-1986 do not apply to causes of action in tort that accrue before September 1, 1986.

(b) The amendments made to IC 34-2-28-1 (before its repeal, now codified at section 2 of this chapter) by P.L.290-1989 apply to judgments obtained after June 30, 1989.

As added by P.L.220-2011, SEC.581.

IC 34-55-10-1

Bankruptcy exemptions

Sec. 1. In accordance with Section 522(b) of the Bankruptcy Code of 1978 (11 U.S.C. 522(b)), in any bankruptcy proceeding, an individual debtor domiciled in Indiana is not entitled to the federal exemptions as provided by Section 522(d) of the Bankruptcy Code of 1978 (11 U.S.C. 522(d)).

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.9.

IC 34-55-10-2

Bankruptcy exemptions; limitations

Sec. 2. (a) This section does not apply to judgments obtained before October 1, 1977.

(b) The amount of each exemption under subsection (c) applies until a rule is adopted by the department of financial institutions under section 2.5 of this chapter.

(c) The following property of a debtor domiciled in Indiana is exempt:

- (1) Real estate or personal property constituting the personal or family residence of the debtor or a dependent of the debtor, or estates or rights in that real estate or personal property, of not more than fifteen thousand dollars (\$15,000). The exemption under this subdivision is individually available to joint debtors concerning property held by them as tenants by the entireties.
- (2) Other real estate or tangible personal property of eight thousand dollars (\$8,000).
- (3) Intangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of three hundred dollars (\$300).
- (4) Professionally prescribed health aids for the debtor or a dependent of the debtor.
- (5) Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

(9) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision (10) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

(10) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not attributable to:

(A) excess contributions, as described in Section 4973(e) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the

contributions; or

(C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all accounts under this subdivision and qualified tuition programs under subdivision (9) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the excess contributions.

(11) The debtor's interest in a refund or a credit received or to be received under the following:

(A) Section 32 of the Internal Revenue Code of 1986 (the federal earned income tax credit).

(B) IC 6-3.1-21-6 (the Indiana earned income tax credit).

(12) A disability benefit awarded to a veteran for a service connected disability under 38 U.S.C. 1101 et seq. This subdivision does not apply to a service connected disability benefit that is subject to child and spousal support enforcement under 42 U.S.C. 659(h)(1)(A)(ii)(V).

(13) Compensation distributed from the supplemental state fair relief fund under IC 34-13-8 to an eligible person (as defined in IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2). This subdivision applies even if a debtor is not domiciled in Indiana.

(d) A bankruptcy proceeding that results in the ownership by the bankruptcy estate of a debtor's interest in property held in a tenancy by the entireties does not result in a severance of the tenancy by the entireties.

(e) Real estate or personal property upon which a debtor has voluntarily granted a lien is not, to the extent of the balance due on the debt secured by the lien:

(1) subject to this chapter; or

(2) exempt from levy or sale on execution or any other final process from a court.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.10; P.L.145-2008, SEC.33; P.L.44-2010, SEC.1; P.L.53-2010, SEC.1; P.L.42-2011, SEC.73; P.L.160-2012, SEC.65.

IC 34-55-10-2.5

Exemption amounts; adoption of rules

Sec. 2.5. (a) The department of financial institutions shall adopt a rule under IC 4-22-2 establishing the amount for each exemption under section 2(c)(1) through 2(c)(3) of this chapter to take effect not earlier than January 1, 2010, and not later than March 1, 2010.

(b) The department of financial institutions shall adopt a rule under IC 4-22-2 establishing new amounts for each exemption under section 2(c)(1) through 2(c)(3) of this chapter every six (6) years after exemption amounts are established under subsection (a). The rule

establishing new exemption amounts under this subsection must take effect not earlier than January 1 and not later than March 1 of the sixth calendar year immediately following the most recent adjustments to the exemption amounts.

(c) The department of financial institutions shall determine the amount of each exemption under subsections (a) and (b) based on changes in the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, for the most recent six (6) year period.

(d) The department of financial institutions shall round the amount of an exemption determined under subsections (a) and (b) to the nearest fifty dollars (\$50).

(e) A rule establishing amounts for exemptions under this section may not reduce an exemption amount below the exemption amount on July 1, 2005.

(f) The department of financial institutions may adopt a rule under subsection (a) or subsection (b) as an emergency rule under IC 4-22-2-37.1.

(g) An emergency rule adopted by the department of financial institutions under this section expires on the earlier of the following dates:

(1) The expiration date stated in the emergency rule.

(2) The date the emergency rule is amended or repealed by a later rule adopted under IC 4-22-2-24 through IC 4-22-2-36 or under IC 4-22-2-37.1.

As added by P.L.179-2005, SEC.11. Amended by P.L.140-2013, SEC.21.

IC 34-55-10-3

Designation of exempt property by debtor

Sec. 3. The debtor may designate real property, personal property, or both, as the exempted property.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.12.

IC 34-55-10-4

Appraisal of exempt property; selection of appraisers

Sec. 4. For the appraisal of any property to be exempted under this chapter, two (2) appraisers shall be chosen, one (1) by the plaintiff or the plaintiff's agent or attorney, and one (1) by the debtor. These two (2), in case of disagreement, shall select a third. If either party fails to select an appraiser, one (1) shall be selected by the officer holding the execution.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.13.

IC 34-55-10-5

Schedule of exempt property; affidavit of appraisers

Sec. 5. The appraisers shall make a schedule of the real and

personal property selected by the debtor, describing the real estate by metes and bounds, and the personal property by separate items, affixing to each the value they agree upon. The appraisers, or a majority, shall affix to the schedule an affidavit in substance as follows: "We, the undersigned, swear that, in our opinion, the property described in the schedule above is valued justly."

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.14.

IC 34-55-10-6

Delivery of schedule of exempt property; second or subsequent appraisals

Sec. 6. The schedule of real and personal property shall be delivered to the officer holding the execution or other process. The officer shall return the schedule with the execution or other process and make the schedule a part of the return. However, all second or subsequent appraisals under this chapter are at the cost of the party or parties asking for the reappraisal, unless the property of the debtor at the time of the reappraisal is appraised at enough over and above the legal exemption to meet the costs.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.15.

IC 34-55-10-7

Repealed

(As added by P.L.1-1998, SEC.51. Repealed by P.L.179-2005, SEC.20.)

IC 34-55-10-8

Personal property only claimed as exemption; procedure

Sec. 8. If the debtor claims as exempt from execution personal property only, the officer holding the execution shall cause the property to be appraised and set apart to the debtor, and shall proceed to sell such other property, if any, that is subject to execution according to law.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.16.

IC 34-55-10-9

Personal and real property claimed as exemption; procedure

Sec. 9. (a) If the value of a debtor's interest in property for which an exemption is claimed exceeds the amount of the exemption, the property may be sold. However, the debtor must be paid an amount equal to the debtor's exemption in the property from the proceeds of the sale.

(b) In making the sale under subsection (a), the officer may not accept a bid unless the bid exceeds the exempt value of the property. If indebtedness secured by a valid lien is chargeable against the proceeds of the sale, a bid may not be accepted if the bid is less than

the sum of the amount of the indebtedness secured by the lien and the exempt value of the property.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.17.

IC 34-55-10-10

Repealed

(As added by P.L.1-1998, SEC.51. Repealed by P.L.179-2005, SEC.20.)

IC 34-55-10-11

Division of real property claimed as exemption; exemption of homestead

Sec. 11. In all cases in which real property is claimed as exempt from sale on execution, if the real property is susceptible of division by metes and bounds without material injury, the real property shall be divided to exempt the principal dwelling house or homestead of the debtor.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.18.

IC 34-55-10-12

Debtor's schedule required

Sec. 12. Before a debtor receives the benefit of the exemption provided by this chapter, the debtor shall deliver to the officer holding the execution a schedule of all the debtor's property, as required by law, if an exemption from sale on execution is claimed.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.19.

IC 34-55-10-13

Absence of execution defendant; rights of spouse

Sec. 13. In any case when the execution defendant is absent from Indiana, or is absent himself or herself from home, and an attachment or execution is directed against the execution defendant's property, the spouse may:

- (1) make out and verify the schedule of the absent spouse's property, and claim and receive for the absent spouse the exemption provided in this chapter; and
- (2) claim and exercise all the rights that would belong to the absent spouse if the absent spouse were present.

As added by P.L.1-1998, SEC.51.

IC 34-55-10-14

Certain lands and taxes unaffected

Sec. 14. The exemption under this chapter does not:

- (1) affect any laborer's or mechanic's lien or lien for the purchase money of the real property exempted; or
- (2) exempt any property from taxation or from sale for taxes.

As added by P.L.1-1998, SEC.51.

IC 34-55-11

Chapter 11. Sale and Execution of Real Estate: Payment of Taxes and Assessments

IC 34-55-11-1

Liability of purchaser and redemptioner

Sec. 1. (a) Whenever real estate is sold on execution or by virtue of a decretal order at judicial sale, the owner of the certificate of purchase may, during the year of redemption, pay to the clerk of the court in whose office the certificate of purchase is required to be recorded the amount of taxes and assessments becoming due and payable against the real estate during the year of redemption.

(b) The clerk shall pay and discharge the taxes and assessments, and, upon the redemption of the real estate, the amount so paid shall be paid by the redemptioner and collected by the clerk as a part of the amount necessary to redeem the real estate from sale.

As added by P.L.1-1998, SEC.51.

IC 34-55-12

Chapter 12. Collection of Judgments Against City or County

IC 34-55-12-1

Judgments against county or city; appropriations; appeal

Sec. 1. (a) A judgment against a county or city may be enforced only from appropriations made for that purpose.

(b) The proper officers of the county or city may be compelled by mandamus proceedings to make the necessary provisions for appropriating, levying, and collecting by taxation the sum necessary for the payment of a judgment. In the mandamus proceedings:

- (1) the respective bodies and officers may be sued collectively by their legal names;
- (2) service of process may be made on any member of the respective bodies; and
- (3) all members of the respective bodies are bound by the judgment.

(c) If a city is entitled to an appeal, the appeal shall be granted without bond. A judgment against a city may not be enforced pending an appeal.

As added by P.L.1-1998, SEC.51.

IC 34-55-12-2

Restrictions on remedies; inapplicability to certain actions

Sec. 2. (a) This section does not apply to judgments and awards arising out of actions between municipalities or in which the state may have an interest.

(b) Execution may not be made upon a judgment or award of a court or board against real or personal property owned by a city or town, or on the interest of a city or town in such property.

(c) A mandate or injunction may not be issued by a court against a city or town or the officers of a city or town concerning a judgment or award unless the judgment or award arises from or out of an action in tort or on an express contract.

As added by P.L.1-1998, SEC.51.

IC 34-55-13

Chapter 13. Collection of Judgments Against Railroad Companies

IC 34-55-13-1

Unpaid judgment; writs directed to agent or employee

Sec. 1. (a) Whenever any judgment rendered in any court against any railroad company owning or operating a line of railroad in or running into or through Indiana remains unpaid for one (1) year after the rendition of the judgment, exclusive of the time execution of the judgment is stayed by appeal or supersedeas, the owner of the judgment may file a complaint against the railroad company alleging such facts and cause summons to be issued on the complaint as in other civil cases.

(b) When summons has been served on the railroad company defendant at least ten (10) days before the first day of the term of court at which the complaint is to be heard, the court shall order a writ to issue, directed to the sheriff of the proper county, for any agent, conductor, or employee of the railroad company, or of the lessee, receiver, or assignee of the company, named in the motion, to:

(1) appear immediately or at such time as the court may direct; and

(2) answer upon oath as to the:

(A) amount of money in the person's hands, if any, belonging to the company or to the assignee, lessee, or receiver; and

(B) probable amount of money receivable by the agent, conductor, or employee belonging to the railroad company, lessee, assignee, or receiver.

(c) If the agent, conductor, or employee answers that one (1) or more of them have any money belonging to the company or to the assignee, lessee, or receiver or that they are in the constant receipt of money as agent, conductor, or employee, the court shall order the agent, conductor, or employee to pay into the clerk's office of the court, at such times as named by the court, the portions of the money so held or receivable, not exceeding fifty percent (50%) of the amount, as may be determined just by the court until the judgment and costs are fully paid and satisfied.

(d) This section does not affect the liens of laborers or the priority of claims and judgments of laborers, employees, and materialmen.
As added by P.L.1-1998, SEC.51.

IC 34-55-13-2

Certain laws unaffected

Sec. 2. This chapter (and IC 34-2-23 before its repeal) are not intended to repeal any law or part of law in effect on April 27, 1899, in relation to the collection of judgments against railroad companies.
As added by P.L.1-1998, SEC.51.